THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.12909 of 2006

Dated:27.06.2006

Between:

Sri N.M.Sambare, and another.

…Petitioners

and

The Sub-Registrar, Registration & Stamps & Duty,
Department, Marredpally, Secunderabad, and another.

…Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.12909 of 2006

ORDER:

The first Petitioner is allegedly the owner of the house bearing plot No.38, admeasuring 376.38 square yards situated in the layout of the Shanthinikethan Co-operative Housing Society Limited, Mahendra Hills, East Marredpally, Secunderabad Cantonment. The second petitioner intended to purchase the same for a consideration of Rs.15 lakhs and the first petitioner executed a sale deed dated 18.05.2006. When the sale deeds were presented for registration, the registering authority, namely the Sub-Registrar, the first respondent herein did not register the documents. The reason was that a Government Notification, being G.O.Ms.No.365, dated 30.05.2000, was issued whereby and whereunder the Government declared the registration of the land in Survey No.74 of East Marredpally, Secunderabad, as opposed to public policy. The challenge is therefore, towards the said Government Order.

In **State of Rajasthan v. Basant Nahata**[1], the Supreme Court struck down the provision in Registration Act as amended by the State of Rajasthan as *ultra vires.* Following the same, a Division Bench of this Court in its Judgment, dated 07.12.2005 in W.P.Nos.14099 of

2003 and batch struck down Section 22-A of the Registration Act as applicable in State of Andhra Pradesh. Therefore, the impugned notification cannot be sustained. Further, in subsequent Judgment in W.P.No.17325 of 2005 and batch, dated 20.02.2006, a Division Bench of this Court while invalidating similar notification observed as under.

> As a sequel to the above, G.O.Ms.No.810, dated 14.10.2004, is also quashed. However, it is made clear that registration of the documents of the petitioners would remain subject to the final adjudication by the Supreme Court. This would necessarily mean that if the appeal filed by the State is allowed by the Supreme Court, the registration of the documents of the petitioners shall stand automatically nullified.

Following the same, this writ petition is allowed observing that any registration of the documents presented by the petitioners would be subject to the adjudication by the Supreme Court, and if, ultimately the Supreme Court allows the Appeal filed by the Government of Andhra Pradesh, the registration of the documents would stand automatically nullified.

The Writ Petition, subject to the above observations, is accordingly allowed. No costs.

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(V.V.S.RAO, J)

27.06.2006
pln

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[1] (2005) 12 SCC 77 = 2005 AIR SCW 4456